

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

IN RE ORGANOGENESIS SECURITIES  
LITIGATION

Civ. No. 04-10027-JLT

**DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION FOR LEAVE TO SERVE  
NON-PARTY *SUBPOENAS AD TESTIFICANDUM***

Defendants Albert Erani, Philip Laughlin, Donna Abelli Lopolito, Michael Sabolinski and Alan Tuck ("Defendants") submit this memorandum in opposition to *Plaintiffs' Motion for Leave to Serve Non-Party Subpoenas Ad Testificandum* upon Novartis Pharmaceuticals Corporation ("Novartis"), PricewaterhouseCoopers LLP ("PWC"), and former employees of those entities (Dkt. No. 204).

As grounds for their opposition, Defendants state:

1. The Motion is unnecessary in light of this Court's recent Order determining that this case cannot proceed as a class action, entering summary judgment for one defendant, and addressing other matters (Dkt. No. 210);
2. Prior to the Court's Order, Plaintiffs were litigating motions against PWC and Novartis concerning the subpoenas they already had served on those non-parties (*see, e.g.*, Dkt. Nos. 203, 205, 207, 208), and to the extent that such discovery is still necessary in this case, it would seem that the existing disputes over those subpoenas should be resolved before new ones are served; and
3. Plaintiffs' request for broad permission to unilaterally subpoena "such current or former employees of Novartis and PWC" who, now or in the future, in their view "may" be worth deposing, is inconsistent with this Court's June 5, 2006 Discovery Order and its prior practice that discovery requests be clearly defined and submitted on a case-by-case basis.

WHEREFORE, Defendants respectfully request this Court deny Plaintiffs' Motion for Leave to Serve Non-Party Subpoenas Ad Testificandum.

Respectfully submitted,

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Dated: March 23, 2007

**CERTIFICATE OF SERVICE**

I, Kimberly I. Friday, hereby certify that a true copy of this document was filed through the ECF system on March 23, 2007, and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Kimberly I. Friday